

REMARKS

Claims 1-9 are pending in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

Applicant thanks the Examiner for the courtesies extended during the telephone interview conducted on April 7, 2010. Participants in the interview included Examiner Candace Bradford and Applicant's representative Brian Parke. The participants discussed the current rejection of the claims in view of Hosaka, Jackson and Inoue. In particular, the participants discussed the plurality of triangular tendon supports as claimed and how Examiner Bradford was applying the Hosaka and Jackson references. However, no agreement with respect to the claims was reached.

Claims 1-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Publication No. 63-019334 to Hosaka et al. ("Hosaka") in view of U.S. Patent No. 3,237,717 to Jackson and in further view of U.S. Patent No. 3,710,578 to Inoue. The rejection is respectfully traversed.

Claim 1 recites a "prestressed scaffolding system for supporting the excavated earth retaining wall by forming a polygonal closed section, comprising: a tendon; a prestressed wale comprising a plurality of triangular tendon supports, being in contact with the tendon, in a middle portion of said wale, a tendon-anchoring unit at both ends of said wale, and a connecting brace for connecting said supports and said tendon-anchoring unit; and a strut constituted by a truss or a plurality of H-beams or an H-beam having a large cross section and supporting said tendon-anchoring unit."

Hosaka discloses a waling that employs a single tendon support 12 that is a column. In contrast, claim 1 recites "a prestressed wale comprising a plurality of triangular tendon supports." (Emphasis added). Thus, Hosaka does not disclose or suggest all the limitations of claim 1. The Office Action relies on Jackson to teach a triangular tendon support 24. Office Action, page 2. However, Jackson does not remedy all of the deficiencies of Hosaka.

Jackson is directed a safety rigging for roofers that is “mounted on a roof structure [that] provid[es] facilities for releasably anchoring a roofer at any location on the roof.” Jackson, col. 1, lines 7-8. More particularly, Jackson discloses that “the roof rigging includes a plurality of longitudinally spaced apex brackets 20.” Jackson, col. 1, lines 63-65. The apex brackets 20 are placed “in a straddling relation to the peak portion 18 of the roof structure,” and “adjacent to the overhanging edges 26 of the roof structure.” Jackson, col. 1, line 68 - col. 2, lines 3; Fig. 2.

Jackson does not discloses a “prestressed wale comprising a plurality of triangular tendon supports, being in contact with the tendon, in a middle portion of said wale,” as recited in claim 1. (Emphasis added). Rather, Jackson discloses a roofing system with supports for preventing roofers from falling from a roof. Further, even assuming the principles from Jackson may be applied to a scaffolding system for supporting an earth retaining wall, Jackson does not disclosure supports in the middle portion of a wale. A wale as claimed is used to support a scaffolding system. If Jackson does disclose a system similar to the claimed system, then the roof 12 would be the scaffolding system and the brackets 20, 24 would be the supports of the wale. Jackson shows a single center bracket and brackets located on both edges of the roof 12. Thus, Jackson does not disclose a “prestressed wale comprising a plurality of triangular tendon supports, being in contact with the tendon, in a middle portion of said wale,” as recited in claim 1. (Emphasis added) Thus, Hosaka in view of Jackson does not disclose or suggest all the limitations of claim 1. Inoue is relied on to teach a utility of struts and does not remedy the deficiencies of Hosaka and Jackson. Thus, claim 1 is not obvious in view of Hosaka, Jackson and Inoue. Therefore, claim 1 is a patentable.

Claims 2-6 depend from claim 1 and are patentable for at least the same reasons as claim 1. Applicant notes that claim 7 was rejected as obvious in view of Hosaka and Inoue only, even though it depends from claim 1. Since it depends from claim 1, claim 7 is patentable over the combination of Hosaka and Inoue for at least the same reasons as claim 1. Furthermore, since claim 7 depends from claim 1, it is also patentable over the combination of Hosaka, Jackson and Inoue. Accordingly, Applicant requests that the rejection be withdrawn and the claims allowed.

Claims 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hosaka in view of Inoue. The rejection is respectfully traversed.

Claim 8 recites “a prestressed scaffolding system forming a polygonal closed section only by using a prestressed wale comprising a tendon, a plurality of triangular tendon supports, being in contact with the tendon, in the middle portion of said wale, a tendon-anchoring unit at both ends of said wale, and a connecting brace for connecting said supports and said tendon-anchoring unit.”

Hosaka discloses a waling that employs a single tendon support 12 that is a column. In contrast, claim 8 recites “a prestressed wale comprising a tendon, a plurality of triangular tendon supports, being in contact with the tendon, in the middle portion of said wale.” (Emphasis added) Thus, Hosaka does not disclose or suggest all the limitations of claim 8. Inoue is relied on to teach a utility of struts and does not remedy the deficiencies of Hosaka. Thus, claim 8 is not obvious in view of Hosaka and Inoue. Claim 9 depends from claim 8 and is patentable for at least the same reasons as claim 8. Accordingly, Applicant requests that the rejection be withdrawn and the claims allowed.

In view of the above, Applicant believes the pending application is in condition for allowance.

Dated: April 19, 2010

Respectfully submitted,

By 
Thomas J. D'Amico

Registration No.: 28,371
Brian G. Parke
Registration No.: 59,226
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403
(202) 420-2200
Attorneys for Applicant